IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4353 of 2004

Date of Decision: 10.10.2006

Jagdish Chander Chawla ...Petitioner

Vs.

Naresh Kumar and Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.S.K.S.Bedi, Advocate,
for the petitioner.

Mr.Jitender Singh, Advocate,
for respondent No.1.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the orders passed by the learned District Judge allowing the application moved under Order 39 Rules 1 and 2 of the Code of Civil Procedure ordering the parties to maintain status quo as regards the possession.

It is not in dispute that the respondents herein are the owners of the property in pursuance to the purchase from Smt. Shanti Bhalla who was owner of the shop in dispute whereas M/s Arora Brothers were the tenants. It was the case of the plaintiff-respondents that after the purchase M/s Arora Brothers had handed back the possession of the shop on receipt of

Rs.20,000/-. However, the petitioner herein raised a dispute regarding the possession and on the said application proceedings under Section 145 of the Code of Criminal Procedure were initiated.

Learned Sub Divisional Magistrate ordered the restoration of the possession to the respondent-plaintiffs and in pursuance to the said order the respondents were, in fact, put in possession of the property in question. However, the petitioner challenged the order of the learned Sub Divisional Magistrate before the learned Additional Sessions Judge, Jalandhar who accepted the revision and set aside the order. However, while reconsidering the matter learned Sub Divisional Magistrate came to the conclusion that it was the petitioner who was in possession of the property at the time of initiation of proceedings under section 145 of the Code of Criminal Procedure and therefore, was entitled to restoration of possession thereof.

The said order was challenged by the plaintiff-respondents and the learned Additional Sessions Judge was pleased to grant stay against the impugned order. Learned Trial Court keeping in view the order passed by the learned Sub Divisional Magistrate which was under challenge before the learned Additional Sessions Judge, came to the conclusion that it was the petitioner who was entitled to possession and declined the application for injunction. However in appeal the learned District Judge ordered the parties to maintain status quo keeping in view the fact that in pursuance to the order passed by the learned Sub Divisional Magistrate the plaintiffs were put in possession and they were owners of the property and therefore, the orders of the learned Trial Court were not sustainable. There is no material on record showing that the possession was handed back to the

petitioner nor the same could be given as there was stay by the learned Additional Sessions Judge against the order passed in their favour.

Learned counsel for the petitioner contends that as in the previous proceedings the petitioner was held to be in possession and therefore, it was not open to the court to rely upon the order passed by the learned Sub Divisional Magistrate to decide in favour of the respondent plaintiffs. Learned court below have not decided the matter on the basis of the order passed by the learned Sub Divisional Magistrate but has only taken note of the fact that the respondent plaintiffs were, in fact, put in possession and therefore, they were entitled to retain the possession till any legal order dispossessing them was passed by the learned Additional Sessions Judge before whom revision against the order passed by the learned Sub Divisional Magistrate was pending. There is no illegality in the impugned order which may call for interference by this court in revisional jurisdiction.

Dismissed.

However, nothing stated above will affect the proceedings pending before the learned Trial Court or Additional Sessions Judge. Jalandhar.

(Vinod K.Sharma)
Judge

10.10.2006
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